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1929-2017  
+ADMITTED IN NY & DC  
++ADMITTED IN NY & NJ

June 23, 2022

**VIA ECF**

Hon. Vernon S. Broderick, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square, Courtroom 518  
New York, New York 10007

**APPLICATION GRANTED**

**SO ORDERED** *Nen Ben*

**VERNON S. BRODERICK**

**U.S.D.J.** 06/24/22

Plaintiff is directed to file proof of service on or  
before June 27, 2022.

Re: *Nadav Nahtomy v. FluidFreeRide LLC and Leitmotif Services*  
*d/b/a FluidFreeRide LLC*  
Civil Action No.: 1:22-cv-02363-VSB

Dear Judge Broderick:

The undersigned represents the plaintiff in the above referenced matter. I respectfully make this letter application for an Order: (1) deeming plaintiff in compliance with Federal Rules of Civil Procedure 4(m), on the grounds that plaintiff effectuated service of process upon all defendants on June 7, 2022, within 90 days of the March 23, 2022 filing of the Complaint in this matter and (2) extending plaintiff's time to file proof of service.

This matter was commenced via the filing of a Complaint on March 23, 2022. ECF Doc. No. 1. As a result, the 90-day period in which to effectuate service prescribed by Rule 4(m) expired on June 21, 2022. Affidavits of service executed by plaintiff's process server Lourdes Vasallo, collectively attached as Exhibit "A," establish that defendants FluidFreeRide LLC and Leitmotif Services d/b/a FluidFreeRide LLC, were timely served copies of the Amended Complaint on June 7, 2022. According to the affidavits, Ms. Vasallo, a certified process server employed by Lexitas, timely served the defendants by delivering a true copy of the Summons and Amended Complaint to "Julian Fernan," a registered agent for the defendants at 7101 N Miami Avenue, Suite 103, Miami FL 33150. See Exhibit "A."

Admittedly, due to an oversight by this office, plaintiff did not file proof of service within 90 days of the filing of the Complaint. Nevertheless, FRCP Rule 4(l)(3) provides that "[f]ailure to prove service does not affect the validity of service." *See also, King v. Best W. Country Inn*, 138 F.R.D. 39, 43 (S.D.N.Y. 1991) ["Although plaintiff failed to file proof of service, both the Federal Rules and New York State law do not invalidate service for failure to provide proof of service"].

On June 16, 2022, I engaged in telephone and e-mail conversations with Matthew C. Murphy, Esq. of the law firm Nilan Johnson Lewis. Mr. Murphy advised me that he was retained

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by defendants upon their receipt of the Summons and Amended Complaint. In response to his request for information supporting plaintiff's claim, I provided Mr. Murphy with additional facts and photographs via e-mail. Here, there is no dispute that defendants received the Amended Complaint and forwarded it to their counsel within the 90-day period prescribed by Rule 4(m). Therefore, plaintiff seeks an extension of time in which to file proof of service upon the defendants.

I thank you for you for allowing me to address the Court in this matter.

Very truly yours,



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